



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

ERNEST JOHNSON, SR., §
Plaintiff, §
§
vs. § CIVIL ACTION NO. 4:05-2422-HFF-TER
§
DAVID A. GOFF, Richland Co. Sheriff Dept.; §
W. BARNEY GIESE, Richland Co. Fifth §
Judicial Head Solicitor; and ROBERT ELAM, §
Richland Co. Fifth Judicial Assistant §
Solicitor, §
Defendants. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND DISMISSING THE
COMPLAINT AS TO DEFENDANTS GIESE AND ELAM *WITHOUT PREJUDICE AND*
WITHOUT ISSUANCE AND SERVICE OF PROCESS

Plaintiff appears to seek relief pursuant to Section 1983. He is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (report) of the United States Magistrate Judge in which he suggests that the Complaint be dismissed *without prejudice* and without issuance and service of process as to Defendants Giese and Elam, but served on Defendant Goff. The report is made in accordance with 28 U.S.C. § 636 and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo*

determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the report on September 9, 2005. Plaintiff failed to file any objections to the report. In the absence of objections, the Court is not required to give any explanation for adopting the report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the report and the record in this case pursuant to the standards set forth above, the Court adopts the report and incorporates it herein. Therefore, it is the judgment of this Court that the Complaint be **DISMISSED** *without prejudice* and without issuance and service of process as to Defendants Giese and Elam, but served on Defendant Goff.

IT IS SO ORDERED.

Signed this 3rd day of October, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has a right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.